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PATENT  
Docket No. SJO920030070US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: David T. Nay et al.

Serial No.: 10/822,255

Filed: April 10, 2004

For: **ADJUSTABLE RACK MOUNTABLE COMPUTER  
TERMINAL MOUNTING SYSTEM**

Group Art  
Unit: 3637

Examiner: Philip Francis Gabler

**APPEAL BRIEF**

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Examiner:

The USPTO received Appellant's timely Notice of Appeal on June 11, 2007, which was filed in response to the Advisory Action mailed on May 22, 2007 and the Final Office Action mailed March 9, 2007. Appellant appeals the rejection of pending claims 1, 6-8, 14, and 22.

This Brief is being filed under the provisions of 37 C.F.R. § 41.37. This Brief is timely as the Brief is being filed within two months of the filing of the notice of appeal. The filing fee set forth in 37 C.F.R. § 41.20(b)(2) of \$500.00 is submitted herewith. The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or to credit any overpayment, to Deposit Account No. 09-0466.

## **1. REAL PARTY IN INTEREST**

The real party in interest is the assignee, International Business Machines Corporation.

## **2. RELATED APPEALS AND INTERFERENCES**

There are no related appeals, interferences, or judicial proceedings.

## **3. STATUS OF CLAIMS**

The Office Action cites the following art: United States Patent Number 6,201,690 to Moore et al. (hereinafter Moore) in view of United States Patent Number 5,388,032 to Gill et al. (hereinafter Gill), United States Patent Number 5,549374 to Krivec (hereinafter Krivec), and United States Patent Number 6,266,236 to Ku et al. (hereinafter Ku).

Claims 1, 6-8, 14, and 22 are pending in the case. Claims 2-5, 9-13, 15-21, 23, and 24 are canceled. Claims 1, 8, and 14 are independent claims. Claims 1, 6-8, 14, and 22 are rejected under 35 USC § 103(a) as unpatentable over the combination of Moore, Gill, Krivec, and Ku.

The claims remain rejected as set forth in the final rejection as noted in the Advisory Action of May 22, 2007. Appellant appeals the rejection of claims 1, 6-8, 14, and 22.

## **4. STATUS OF AMENDMENTS**

No proposed amendments are pending.

## **5. SUMMARY OF CLAIMED SUBJECT MATTER**

The claimed subject matter deals with mounting a computer in a computer equipment rack so that the height of the computer can be adjusted. See published version of the application US patent Publication No. 2005/0225217 (hereinafter '217) page 2, ¶ 22, lines 1-7.

The problem addressed is the need to vertically adjust computers that mount within an equipment rack. See '217, page 1, ¶ 4, lines 7-10. Gill teaches such a rack mounting that cannot be vertically adjusted. See Gill, fig. 4. The present invention improves rack mounting of a computer in an equipment rack so that the vertical height of the computer may be adjusted when extended from the equipment rack. See '217, page 3, ¶ 36, lines 5-10; figs. 5C and 5D.

Specifically, the claimed invention provides a second frame composed of two longitudinal frames horizontally separated by two lateral frames, the longitudinal frames and lateral frames forming a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame that enables the vertical adjustment. See ‘217, page 2, ¶ 3, lines 1-7; fig. 1, ref. 3511, 3512, 3521, 3522. Embodiments of the present invention include a computer terminal bracket rack, a rack storage bracket, and a cabinet for a rack mounted computer system.

<sup>1</sup> See e.g. claims 1, 8, and 14.

Claim 1 presents a computer terminal bracket rack mounted in a computer cabinet. The computer terminal bracket rack is configured to fold into a single horizontal plane (‘217, page 2, ¶ 26, lines 1-7, fig. 1, refs. 20, 30; fig. 2; fig. 4). The computer terminal bracket rack includes a first frame movable with respect to the computer cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the computer cabinet (‘217, page 2, ¶ 30, lines 1-9; fig. 1, ref. 31, fig. 2, refs. 11, 31; fig. 3, ref. 31, fig. 4, ref. 31).

The computer terminal bracket rack also includes a second frame (‘217, page 2, ¶ 31, lines 1-3; fig. 2, ref. 35; fig. 3, ref. 35). The second frame is composed of two longitudinal frames (‘217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3511, 3512) horizontally separated by two lateral frames (‘217, page 2, ¶ 26, lines 16-18; fig. 1, ref. 3521, 3522). The longitudinal frames and lateral frames form a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame, and the first and second lateral frames not impinging on an open interior of the rectangle (‘217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512). Each longitudinal frame’s longitudinal dimension is much greater than the longitudinal frame’s latitudinal dimension (‘217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512) and is pivotally mounted by first friction hinges at a proximal edge to the

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<sup>1</sup> Although Appellant has summarized embodiments of the present invention, the present invention is defined by the claims themselves. Appellant’s summary is not intended to limit the scope of the claims or individual claim elements in complying with the appeal brief requirements under 37 C.F.R. § 41.37(c)(v).

distal edge of the first frame ('217, page 2, ¶ 31, lines 1-3; page 2, ¶ 32, lines 1-7, original claims 13 and 19). The first friction hinges are configured for the second frame to rotate about the distal edge of the first frame ('217, page 2, ¶ 31, lines 3-7) and include first friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7).

The computer terminal bracket rack further includes a keyboard holder pivotally mounted to the second frame by second friction hinges at a distal edge thereof for angular adjustment of the keyboard holder, the second friction hinges configured for the keyboard holder to rotate about the distal edge of the second frame ('217, page 2, ¶ 32, lines 1-5; original claim 1, fig. 2, refs. 20, 23, 25). The keyboard holder comprises second friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7). The height of the keyboard holder is adjustable in a vertical direction ('217, page 2, ¶ 31, lines 3-7; page 3, ¶ 36, lines 6-10).

In addition, the computer terminal bracket rack includes a keyboard coupled to said keyboard holder ('217, page 3, ¶ 34, lines 1-4; fig. 2, ref. 20; fig. 3, ref. 23). The computer terminal bracket rack also includes a display holder pivotally mounted to the second frame at the distal edge thereof for angular adjustment of the display holder ('217, original claim 1, page 2, ¶ 32, lines 1-5). The computer terminal bracket rack further includes a display coupled to the display holder ('217, original claim 3, fig. 3, ref. 25).

The following quotation of claim 1 includes reference numerals and parenthetical references to representative examples of the elements and components recited in claim 1 in compliance with 37 CFR 41.37(c)(1)(v).

1. A computer terminal bracket rack mounted in a computer cabinet and configured to fold into a single horizontal plane ('217, page 2, ¶ 26, lines 1-7, fig. 1, refs. 20, 30; fig. 2; fig. 4), comprising:

a first frame movable with respect to the computer cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the computer cabinet ('217, page 2, ¶ 30, lines 1-9; fig. 1, ref. 31, fig. 2, refs. 11, 31; fig. 3, ref. 31, fig. 4, ref. 31); and

a second frame ('217, page 2, ¶ 31, lines 1-3; fig. 2, ref. 35; fig. 3, ref. 35) composed of two longitudinal frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3511, 3512) horizontally separated by two lateral frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, ref. 3521, 3522), the longitudinal frames and lateral frames forming a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame, and the first and second lateral frames not impinging on an open interior of the rectangle ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512), wherein each longitudinal frame's longitudinal dimension is much greater than the longitudinal frame's latitudinal dimension ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512), pivotally mounted by first friction hinges at a proximal edge to the distal edge of the first frame ('217, page 2, ¶ 31, lines 1-3; page 2, ¶ 32, lines 1-7, original claims 13 and 19), the first friction hinges configured for the second frame to rotate about the distal edge of the first frame ('217, page 2, ¶ 31, lines 3-7) and comprising first friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7);  
a keyboard holder pivotally mounted to the second frame by second friction hinges at a distal edge thereof for angular adjustment of the keyboard holder, the second friction hinges configured for the keyboard holder to rotate about the distal edge of the second frame ('217, page 2, ¶ 32, lines 1-5; original claim 1, fig. 2, refs. 20, 23, 25) and comprising second friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7), wherein the height of said keyboard holder is adjustable in a vertical direction ('217, page 2, ¶ 31, lines 3-7; page 3, ¶ 36, lines 6-10);

a keyboard coupled to said keyboard holder ('217, page 3, ¶ 34, lines 1-4; fig. 2, ref. 20; fig. 3, ref. 23);

a display holder pivotally mounted to the second frame at the distal edge thereof for angular adjustment of the display holder ('217, original claim 1, page 2, ¶ 32, lines 1-5); and a display coupled to said display holder ('217, original claim 3, fig. 3, ref. 25).

Claim 8 presents a rack storage bracket mounted in a cabinet, the bracket being adjustably movable outward from the cabinet and configured to fold into a single horizontal plane ('217,

page 2, ¶ 26, lines 1-7, fig. 1, refs. 20, 30; fig. 2; fig. 4). The bracket includes a first frame movable horizontally with respect to the cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction measured against steel of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the computer cabinet ('217, page 2, ¶ 30, lines 1-9; fig. 1, ref. 31, fig. 2, refs. 11, 31; fig. 3, ref. 31, fig. 4, ref. 31).

The bracket further includes a second frame ('217, page 2, ¶ 31, lines 1-3; fig. 2, ref. 35; fig. 3, ref. 35). The second frame is composed of two longitudinal frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3511, 3512). The two longitudinal frames are horizontally separated by two lateral frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, ref. 3521, 3522). The longitudinal frames and lateral frames form a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame, and the first and second lateral frames not impinging on an open interior of the rectangle ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512). Each longitudinal frame's longitudinal dimension is much greater than the longitudinal frame's latitudinal dimension ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512) and is pivotably joined to the first frame with first friction hinges at the distal edge of the first frame ('217, page 2, ¶ 31, lines 1-3; page 2, ¶ 32, lines 1-7, original claims 13 and 19). The first friction hinges are configured for the second frame to rotate about the distal edge of the first frame ('217, page 2, ¶ 31, lines 3-7). The first friction hinges comprise first friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7);

In addition, the bracket includes a single terminal unit pivotally mounted to the second frame by second friction hinges at a distal edge thereof for angular adjustment of said single terminal unit, the second friction hinges configured for said single terminal unit to rotate about the distal edge of said second frame ('217, page 2, ¶ 32, lines 1-5; original claim 10, fig. 2, refs. 20, 23, 25). The second friction hinges comprise second friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7). The height of the single terminal unit is adjustable in a vertical direction ('217, page 2, ¶ 31, lines 3-7; page 3, ¶ 36, lines 6-10).

The bracket further includes a keyboard coupled to the single terminal unit ('217, page 3,

¶ 34, lines 1-4; fig. 3, ref. 23). In addition, the bracket includes a display coupled to the single terminal unit ('217, page 3, ¶34, lines 1-7; fig. 3, ref. 25).

The following quotation of claim 8 includes reference numerals and parenthetical references to representative examples of the elements and components recited in claim 8 in compliance with 37 CFR 41.37(c)(1)(v).

8. A rack storage bracket mounted in a cabinet, said bracket being adjustably movable outward from the cabinet and configured to fold into a single horizontal plane ('217, page 2, ¶ 26, lines 1-7, fig. 1, refs. 20, 30; fig. 2; fig. 4), said bracket comprising:

a first frame movable horizontally with respect to the cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction measured against steel of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the computer cabinet ('217, page 2, ¶ 30, lines 1-9; fig. 1, ref. 31, fig. 2, refs. 11, 31; fig. 3, ref. 31, fig. 4, ref. 31); and

a second frame ('217, page 2, ¶ 31, lines 1-3; fig. 2, ref. 35; fig. 3, ref. 35) composed of two longitudinal frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3511, 3512) horizontally separated by two lateral frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, ref. 3521, 3522), the longitudinal frames and lateral frames forming a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame, and the first and second lateral frames not impinging on an open interior of the rectangle ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512), wherein each longitudinal frame's longitudinal dimension is much greater than the longitudinal frame's latitudinal dimension ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512), pivotably joined to the first frame with first friction hinges at the distal edge of the first frame ('217, page 2, ¶ 31, lines 1-3; page 2, ¶ 32, lines 1-7, original claims 13 and 19), the first friction hinges configured for the second frame to rotate about the distal edge of the first frame ('217, page 2, ¶ 31, lines 3-7) and comprising first friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7);

a single terminal unit pivotally mounted to the second frame by second friction hinges at a distal

edge thereof for angular adjustment of said single terminal unit, the second friction hinges configured for said single terminal unit to rotate about the distal edge of said second frame ('217, page 2, ¶ 32, lines 1-5; original claim 10, fig. 2, refs. 20, 23, 25) and comprising second friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7), wherein the height of said single terminal unit is adjustable in a vertical direction ('217, page 2, ¶ 31, lines 3-7; page 3, ¶ 36, lines 6-10);

a keyboard coupled to said single terminal unit ('217, page 3, ¶ 34, lines 1-4; fig. 3, ref. 23); and a display coupled to said single terminal unit ('217, page 3, ¶ 34, lines 1-7; fig. 3, ref. 25).

Claim 14 presents a cabinet for a rack mounted computer system. The cabinet includes a bracket for storage in the cabinet, said bracket being adjustably movable outward from the cabinet, wherein said bracket folds into a single horizontal plane said bracket ('217, page 2, ¶ 26, lines 1-7, fig. 1, refs. 20, 30; fig. 2; fig. 4). The bracket also includes a first frame vertically fixed and horizontally movable with respect to the cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction measured against steel of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the cabinet ('217, page 2, ¶ 30, lines 1-9; fig. 1, ref. 31, fig. 2, refs. 11, 31; fig. 3, ref. 31, fig. 4, ref. 31).

In addition, the bracket includes a second frame ('217, page 2, ¶ 31, lines 1-3; fig. 2, ref. 35; fig. 3, ref. 35). The second frame is composed of two longitudinal frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3511, 3512) horizontally separated by two lateral frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, ref. 3521, 3522). The longitudinal frames and lateral frames form a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame, and the first and second lateral frames not impinging on an open interior of the rectangle ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512). Each longitudinal frame's longitudinal dimension is much greater than the longitudinal frame's latitudinal dimension ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512) and is pivotably joined to the first frame with first friction hinges at the distal edge of the first frame ('217, page 2, ¶ 31, lines 1-3; page 2, ¶ 32, lines 1-7, original claims 13 and 19). The first friction hinges are configured for the second frame to rotate about the distal edge of the first

frame ('217, page 2, ¶ 31, lines 3-7). The first friction hinges include first friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7).

The bracket further includes a keyboard holder pivotally mounted to the second frame by second friction hinges at a distal edge thereof for angular adjustment of the keyboard holder, the second friction hinges configured for the keyboard holder to rotate about the distal edge of the second frame ('217, page 2, ¶ 32, lines 1-5; original claim 1, fig. 2, refs. 20, 23, 25) and comprising second friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7). The height of said keyboard holder is adjustable in a vertical direction ('217, page 2, ¶ 31, lines 3-7; page 3, ¶ 36, lines 6-10).

The bracket also includes a keyboard coupled to said keyboard holder ('217, page 3, ¶ 34, lines 1-4; fig. 2, ref. 20; fig. 3, ref. 23). The bracket further includes a display holder pivotally mounted to the second frame at the distal edge thereof for angular adjustment of the keyboard holder and display holder, wherein an angle of the display holder is adjustable with respect to the cabinet and the keyboard holder ('217, original claim 1, page 2, ¶ 32, lines 1-5). In addition, the bracket includes a display coupled to the display holder ('217, original claim 3, fig. 3, ref. 25).

The following quotation of claim 14 includes reference numerals and parenthetical references to representative examples of the elements and components recited in claim 14 in compliance with 37 CFR 41.37(c)(1)(v).

14. A cabinet for a rack mounted computer system, said cabinet comprising a bracket for storage in the cabinet, said bracket being adjustably movable outward from the cabinet, wherein said bracket folds into a single horizontal plane said bracket ('217, page 2, ¶ 26, lines 1-7, fig. 1, refs. 20, 30; fig. 2; fig. 4) comprising:

a first frame vertically fixed and horizontally movable with respect to the cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction measured against steel of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the cabinet ('217, page 2, ¶ 30, lines 1-9; fig. 1, ref. 31, fig. 2, refs. 11, 31; fig. 3, ref. 31, fig. 4, ref. 31); and

a second frame ('217, page 2, ¶ 31, lines 1-3; fig. 2, ref. 35; fig. 3, ref. 35) composed of two longitudinal frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3511, 3512) horizontally

separated by two lateral frames ('217, page 2, ¶ 26, lines 16-18; fig. 1, ref. 3521, 3522), the longitudinal frames and lateral frames forming a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame, and the first and second lateral frames not impinging on an open interior of the rectangle ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512), wherein each longitudinal frame's longitudinal dimension is much greater than the longitudinal frame's latitudinal dimension ('217, page 2, ¶ 26, lines 16-18; fig. 1, refs. 3521, 3522, 3511, 3512), pivotably joined to the first frame with first friction hinges at the distal edge of the first frame ('217, page 2, ¶ 31, lines 1-3; page 2, ¶ 32, lines 1-7, original claims 13 and 19), the first friction hinges configured for the second frame to rotate about the distal edge of the first frame ('217, page 2, ¶ 31, lines 3-7) and comprising first friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7);

a keyboard holder pivotally mounted to the second frame by second friction hinges at a distal edge thereof for angular adjustment of the keyboard holder, the second friction hinges configured for the keyboard holder to rotate about the distal edge of the second frame ('217, page 2, ¶ 32, lines 1-5; original claim 1, fig. 2, refs. 20, 23, 25) and comprising second friction brakes that restrain rotation at a desired angle ('217, page 2, ¶ 32, lines 2-7), wherein the height of said keyboard holder is adjustable in a vertical direction ('217, page 2, ¶ 31, lines 3-7; page 3, ¶ 36, lines 6-10);

a keyboard coupled to said keyboard holder ('217, page 3, ¶ 34, lines 1-4; fig. 2, ref. 20; fig. 3, ref. 23);

a display holder pivotally mounted to the second frame at the distal edge thereof for angular adjustment of the keyboard holder and display holder, wherein an angle of said display holder is adjustable with respect to the cabinet and the keyboard holder ('217, original claim 1, page 2, ¶ 32, lines 1-5); and

a display coupled to said display holder ('217, original claim 3, fig. 3, ref. 25).

## 6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

**I. Whether the Examiner properly rejected claims 1, 8, and 14 under 35 U.S.C. §103(a) as obvious in view of Moore, Gill, Krivec, and Ku?**

## 7. ARGUMENT

**I. The rejection of claims 1, 8, and 14 under 35 U.S.C. §103(a) as obvious in view of Moore, Gill, Krivec, and Ku is improper because Moore, Gill, Krivec, and Ku fail to teach each element of claims 1, 8, and 14.**

Summary of the Examiner arguments.

[001] The Examiner rejects Claims 1, 8, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Moore in view of Gill, Krivec, and Ku. The Examiner relies on Moore for frames, Gill for a wheel/rail arrangement, Krivec for lubricous material, and Ku for friction hinges. See Final Office Action of March 9, 2007, page 2, lines 15-17; page 3, lines 16-19; page 4, lines 1-4.

Response

[002] Appellants respectfully reaffirm the arguments raised against the rejection of claims 1, 8, and 14 in the response mailed May 9, 2007 that Moore, Gill, Krivec, and Ku do not teach each element of claims 1, 8, and 14. In addition, Appellants assert that the differences in the scope and content between the claimed invention and the cited prior are make a finding of obviousness in view of Moore, Gill, Krivec, and Ku inappropriate.

The legal requirements

It is well settled that the PTO has the burden to establish a *prima facie* case of obviousness. *In re Glaug*, 2002 U.S. App. Lexis 4246, \*4 (Fed. Cir. March 15, 2002); MPEP §2142. “To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” MPEP §2143.03.

The four factual inquires for determining obviousness are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and

(D) Evaluating evidence of secondary considerations. MPEP § 2141 I.

Claim 1

[003] Claim 1 recites:

1. A computer terminal bracket rack mounted in a computer cabinet and configured to fold into a single horizontal plane, comprising:

a first frame movable with respect to the computer cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the computer cabinet; and

a second frame composed of two longitudinal frames horizontally separated by two lateral frames, the longitudinal frames and lateral frames forming a **horizontally disposed open rectangle** with a **first lateral frame connecting only to a proximal end of each longitudinal frame**, a **second lateral frame connecting only to a distal end of each longitudinal frame**, and the first and second lateral frames not impinging on an open interior of the rectangle, wherein each longitudinal frame's longitudinal dimension is much greater than the longitudinal frame's latitudinal dimension, pivotally mounted by first friction hinges at a proximal edge to the distal edge of the first frame, the first friction hinges configured for the second frame to rotate about the distal edge of the first frame and comprising first friction brakes that restrain rotation at a desired angle;

a keyboard holder pivotally mounted to the second frame by second friction hinges at a distal edge thereof for angular adjustment of the keyboard holder, the second friction hinges configured for the keyboard holder to rotate about the distal edge of the second

frame and comprising second friction brakes that restrain rotation at a desired angle, wherein the height of said keyboard holder is adjustable in a vertical direction; a keyboard coupled to said keyboard holder; a display holder pivotally mounted to the second frame at the distal edge thereof for angular adjustment of the display holder; and a display coupled to said display holder.

[004] Appellants maintain the position that neither Moore, Gill, Krivec, nor Ku teach or disclose each element of claim 1. Claim 1 is representative of the other rejected independent claims 8 and 14.

[005] Claim 1 includes the a second frame with two longitudinal frames and “**...a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame...**” As cited by the Examiner, Moore also discloses a second frame with longitudinal frames, “...viewed as the longitudinal side members of 43...” Office Action of March 9, 2007, page 2, line 19; Moore, fig. 9, ref. 43. The Examiner also points out that Moore includes lateral frames, “...the upper and lower portions of 43 joining the longitudinal frames...” Office Action of March 9, 2007, page 2, lines 20-21. However, the lateral members disclosed in Moore are each connected to both the proximal end and the distal end of each longitudinal frame, whereas claim 1 specifies that a first lateral frame is only connected to a proximal end of each longitudinal frame and a second lateral frame is only connected to a distal end of the each longitudinal frame. Appellants therefore assert that claim 1 is allowable as neither Moore nor Gill, Krivec, and Ku teach a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame.

[006] In the Advisory Action of May 22, 2007, the Examiner argues that the rejections are maintained because Moore teaches a second frame “...where the lateral frames connect only to proximal and distal ends (the upper and lower sides) of the longitudinal frames respectively.”

Advisory Action of May 22, 2007, page 2, lines 4-5. Appellants assert that this summary of the elements of claim 1 justifying a sustaining of the rejection is in error. Claim 1 specifies that the first lateral frame connect only to the proximal end of each longitudinal frame and the second lateral frame only connect to the distal end of each longitudinal frame. Appellants therefore submit that the Examiner's maintaining of the rejection to claim 1 is inappropriate and that claim 1 is allowable.

[007] In the office action of March 9, 2007, the Examiner argues that the frame 43 of Moore forms a horizontally disposed open rectangle when seen from the front. Office Action of March 9, 2007, page 2, ¶ 2; Moore, fig. 9, ref. 43. Applicants respectfully disagree. The open rectangle of the frame 43 in Moore is clearly vertically disposed. Appellants therefore assert that claim 1 is allowable as the combination of Moore, Gill, Krivec, and Ku do not disclose each element of claim 1.

[008] Claims 8 and 14 include the missing elements of a **horizontally disposed open rectangle** and a **first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame** discussed above in relation to claim 1. Appellants therefore assert that the combination of Moore and Gill with Krivec and Ku is also inappropriate for claims 8 and 14. Therefore, Claims 8 and 14 are allowable for at least the same reasons as claim 1.

**II. The rejection of claims 1, 8, and 14 under 35 U.S.C. §103(a) as obvious in view of Moore, Gill, Krivec, and Ku is improper because a proper motivation or suggestion to combine the references has not been shown.**

[009] Appellants further assert that the Examiner has made no showing as to why a person of ordinary skill in the art would combine Krivec and Ku with the equipment rack console teachings of Moore and Gill. "Therefore, in formulating a rejection under 35 U.S.C. § 103(a) base on a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art element in the manner claimed." USPTO Memorandum of May 3, 2007 on the Supreme Court decision in *KSR Int'l.*

*Co., v. Teleflex, Inc.* The scope and content of the Teflon drawers taught by Krivec and laptop disclosed by Ku are so different from the equipment rack console teachings of Moore and Gill that absent a reason for combining Krivec and Ku, Appellants assert that the combination of Moore, Gill, Krivec and Ku is inappropriate. Applicants believe that the applications are combined here only with the use of hindsight, as has been deemed improper by this Board and by the courts.

## **8. DEPENDENT CLAIMS**

### **I. Claims 6,7, and 22 are allowable.**

[010] Claims 6, 7, and 22 depend from claims 1 and 14 and are allowable for at least the same reasons as given above for the independent claims.

## SUMMARY

In view of the foregoing, Appellants respectfully assert that each of the claims on appeal has been improperly rejected because the rejections under 35 U.S.C. §103(a) are improper. Therefore, Appellants respectfully request reversal of the Examiner's rejections under 35 U.S.C. §103(a), and urges that pending claims 1, 6-8, 14, and 22 be allowed. Appellants appeal to the Board's objective and reasoned decision on this matter.

Respectfully submitted,

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## 8. CLAIMS APPENDIX

The claims involved in the appeal, namely claims 1, 6-8, 14, and 22 are listed below.

1. A computer terminal bracket rack mounted in a computer cabinet and configured to fold into a single horizontal plane, comprising:

    a first frame movable with respect to the computer cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the computer cabinet; and

    a second frame composed of two longitudinal frames horizontally separated by two lateral frames, the longitudinal frames and lateral frames forming a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame, and the first and second lateral frames not impinging on an open interior of the rectangle, wherein each longitudinal frame's longitudinal dimension is much greater than the longitudinal frame's latitudinal dimension, pivotally mounted by first friction hinges at a proximal edge to the distal edge of the first frame, the first friction hinges configured for the second frame to rotate about the distal edge of the first frame and comprising first friction brakes that restrain rotation at a desired angle; a keyboard holder pivotally mounted to the second frame by second friction hinges at a distal edge thereof for angular adjustment of the keyboard holder, the second friction hinges configured for the keyboard holder to rotate about the distal edge of the second frame and comprising second friction brakes that restrain rotation at a desired angle, wherein the height of said keyboard holder is adjustable in a vertical direction;

    a keyboard coupled to said keyboard holder;

    a display holder pivotally mounted to the second frame at the distal edge thereof for angular adjustment of the display holder; and  
    a display coupled to said display holder.

6. The computer terminal bracket of claim 1 wherein the keyboard holder and display holder

comprise a single terminal unit pivotable about the distal edge of the second frame.

7. The computer terminal bracket of claim 1 wherein the keyboard holder and display holder are individually pivotable about the distal edge of the second frame of the bracket.

8. A rack storage bracket mounted in a cabinet, said bracket being adjustably movable outward from the cabinet and configured to fold into a single horizontal plane, said bracket comprising:

    a first frame movable horizontally with respect to the cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction measured against steel of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the computer cabinet; and

    a second frame composed of two longitudinal frames horizontally separated by two lateral frames, the longitudinal frames and lateral frames forming a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame, and the first and second lateral frames not impinging on an open interior of the rectangle, wherein each longitudinal frame's longitudinal dimension is much greater than the longitudinal frame's latitudinal dimension, pivotably joined to the first frame with first friction hinges at the distal edge of the first frame, the first friction hinges configured for the second frame to rotate about the distal edge of the first frame and comprising first friction brakes that restrain rotation at a desired angle; a single terminal unit pivotally mounted to the second frame by second friction hinges at a distal edge thereof for angular adjustment of said single terminal unit, the second friction hinges configured for said single terminal unit to rotate about the distal edge of said second frame and comprising second friction brakes that restrain rotation at a desired angle, wherein the height of said single terminal unit is adjustable in a vertical direction; a keyboard coupled to said single terminal unit; and a display coupled to said single terminal unit.

14. A cabinet for a rack mounted computer system, said cabinet comprising a bracket for storage in the cabinet, said bracket being adjustably movable outward from the cabinet, wherein said bracket folds into a single horizontal plane said bracket comprising:

a first frame vertically fixed and horizontally movable with respect to the cabinet by wheels over rails, the rails fabricated of a lubricious material with a coefficient of sliding friction measured against steel of less than 0.11, whereby a distal edge of the first frame of the bracket is extendable outwardly from the cabinet; and

a second frame composed of two longitudinal frames horizontally separated by two lateral frames, the longitudinal frames and lateral frames forming a horizontally disposed open rectangle with a first lateral frame connecting only to a proximal end of each longitudinal frame, a second lateral frame connecting only to a distal end of each longitudinal frame, and the first and second lateral frames not impinging on an open interior of the rectangle, wherein each longitudinal frame's longitudinal dimension is much greater than the longitudinal frame's latitudinal dimension, pivotably joined to the first frame with first friction hinges at the distal edge of the first frame, the first friction hinges configured for the second frame to rotate about the distal edge of the first frame and comprising first friction brakes that restrain rotation at a desired angle;

a keyboard holder pivotally mounted to the second frame by second friction hinges at a distal edge thereof for angular adjustment of the keyboard holder, the second friction hinges configured for the keyboard holder to rotate about the distal edge of the second frame and comprising second friction brakes that restrain rotation at a desired angle, wherein the height of said keyboard holder is adjustable in a vertical direction;

a keyboard coupled to said keyboard holder;

a display holder pivotally mounted to the second frame at the distal edge thereof for angular adjustment of the keyboard holder and display holder, wherein an angle of said display holder is adjustable with respect to the cabinet and the keyboard holder; and

a display coupled to said display holder.

22. The cabinet of claim 14 wherein said lubricious material is chosen from the group consisting of polytetrafluoroethylene, high density polyethylene, polyphenylene ether, polypropylene, polystyrene, and polymethylmethacrylate.

## **9. EVIDENCE APPENDIX**

There is no material to be included in the Evidence Appendix.

## **10. RELATED PROCEEDINGS APPENDIX**

There is no material to be included in the Related Proceedings Appendix.